

*Pietronitto*



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** S&B Blake & Co., Inc.

**File:** B-235039

**Date:** July 17, 1989

---

### **DIGEST**

Agency decision to resolicit after termination of contract for convenience of government is not objectionable where protester's proposal was technically unacceptable without further discussions, where agency determined that prior solicitation's limited competition was not justified and where resolicitation would broaden competition.

---

### **DECISION**

S&B Blake Co., Inc., protests the resolicitation of repair services after the termination of the contract awarded to Ross & Barr, Inc., under request for proposals (RFP) No. DAAE07-89-R-0601, which was issued by the United States Army Tank-Automotive Command.

We deny the protest.

The RFP sought services for the repair of a fire damaged dwelling at Selfridge Army National Guard Base. Because of the shortage of available housing at the base, the agency issued the solicitation as an emergency procurement with limited competition. The Army justified the limited competition under 10 U.S.C. § 2304(c)(2) (Supp. IV 1986), which provides that an agency may use other than competitive procedures when the agency's needs for the property or services is of such an unusual and compelling urgency that the government would be seriously injured unless the agency was permitted to limit the number of sources from which it solicited bids or proposals. The Army issued the RFP to only three contractors, including Blake and Ross & Barr, each of which submitted a proposal.

*C-46042 / 139165*

Blake submitted the low price proposal. However, the agency found that Blake had failed to submit required materials and workmanship drawings regarding the installation of kitchen cabinets and provided Blake with the opportunity to revise its proposal to correct this deficiency. The data provided by Blake indicated that the proposed kitchen cabinets did not meet the RFP requirements. Accordingly, the Army found Blake's proposal to be technically unacceptable. Of the 3 offerors, only Ross & Barr was found to be technically acceptable. The Army made award to Ross & Barr on February 28, 1989.

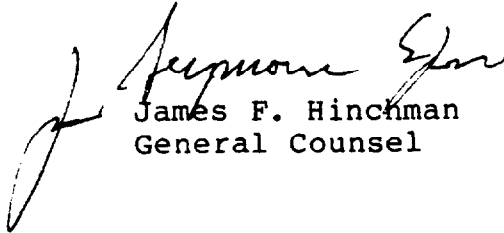
Blake protested the award to the agency on March 1. Blake argued that it was not given sufficient opportunity to correct its proposal and that as the low offeror it was entitled to award. The Army, after review of Blake's agency-level protest, found that its determination to limit competition was not justified, because the urgency was not as great as first thought and determined that it would terminate the award and resolicit the requirements seeking broader competition. The award to Ross & Barr was terminated for the convenience of the government on March 29.

Blake protests the resolicitation to the our Office and contends that, as the low offeror, it is entitled to award. While procurement regulations provide no specific direction or guidance regarding how procuring agencies should proceed after a contract is terminated for the convenience of the government, we have held that the agency's determination either to resolicit or, if practicable, to make award under the prior solicitation must have a reasonable basis. Tiger Optical Electronics Corp., B-225358, Nov. 13, 1986, 86-2 CPD ¶ 560.

The Army states that it had no reasonable basis for limiting competition under the RFP and proposes to resolicit the requirements to obtain broader competition. The Army also states that award to Blake under the RFP is impracticable because Blake's proposal is technically unacceptable without further discussions. We have upheld an agency's determination to cancel a solicitation and resolicit where the agency reasonably expected to obtain increased competition. See Dohrman Machine Production, Inc., B-223307, Aug. 25, 1986, 86-2 CPD ¶ 221. Furthermore, resoliciting this requirement to enhance competition is consistent with the statutory mandate in the Competition in Contracting Act

of 1984, 10 U.S.C. 2304 (a)(1)(A), requiring agencies to obtain full and open competition. We do not think the Army's decision to resolicit the requirements in an unrestricted procurement is objectionable.1/

The protest is denied.



James F. Hinchman  
General Counsel

---

1/ On July 3, 1989, Blake filed a new protest, B-235039.2, asserting that the Army had failed to solicit the protester in its resolicitation of the IFB requirements.